

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.10.2018

CORAM:

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

C.M.A.No.741 & 776 of 2011
and
M.P.Nos.1 & 1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore) Chennimalai Road,
Erode 638 009. ...Appellant in both appeals
Vs

V.Ponnudurai ...Respondent in CMA.No.741 of 2011

M.Muthusamy ...Respondent in CMA.No.776 of 2011

COMMON PRAYER: Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in MCOP.Nos.19 & 20 of 2008 respectively dated 29.12.2009 on the file of the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Salem.

For Appellant
in both Appeals : Mr.K.J.Sivakumar

For Respondent
in both Appeals : Mr.C.Kulanthaivel

C O M M O N J U D G M E N T

The instant Appeals have been filed by the Transport Corporation challenging the common Award dated 29.12.2009 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Salem in M.C.O.P.Nos.19 & 20 of 2008.

2.The Respondent in C.M.A.No.741 of 2011 is the claimant in M.C.O.P.No.19 of 2008 and the Respondent in C.M.A.No.776 of 2011 is the claimant in M.C.O.P.No.20 of 2008. Both the claimants were travelling as Passengers in a Bus bearing Registration No.TN-33-N-1722 owned by the Appellant/Transport Corporation on 14.09.2007 when due to rash and negligent driving by its driver, had capsized resulting in injuries sustained by the respective Respondents in both the Appeals.

3.The Respondent in C.M.A.No.741 of 2011 preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.19 of 2008 seeking a compensation of Rs.6,00,000/- and the Respondent in C.M.A.No.776 of 2011 preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.20 of 2008 seeking a compensation of Rs.6,00,000/-.

4.By a Common Award dated 29.12.2009 in M.C.O.P.Nos.19 & 20 of 2008, the Motor Accidents Claims Tribunal directed the Appellant to pay the Respondent in C.M.A.No.741 of 2011 a sum of

Rs.1,04,850/- and directed the Appellant to pay the Respondent in C.M.A.No.776 of 2011 a sum of Rs.87,480/- together with interest at 7.5% per annum from the date of claim till the date of realisation.

5. Aggrieved by the Common Award dated 29.12.2009 passed in M.C.O.P.Nos.19 & 20 of 2008, the instant Appeals have been filed by the Appellant/Transport Corporation.

6. Heard Mr.K.J.Sivakumar, Learned Counsel for the Appellant in both the Appeals and Mr.C.Kulanthaivel, Learned Counsel for the Respondent in both the Appeals.

7. According to the Learned Counsel for the Appellant, the Tribunal has erroneously applied the multiplier method in assessing the compensation payable to the Respondents in both the Appeals. According to him, considering the age, avocation and nature of injuries sustained by the Respondent in both the Appeals, the Tribunal ought not to have adopted the multiplier method.

8. Per contra, the Learned Counsel for the Respondent (in both the Appeals) would submit that the respective Respondents are Agricultural Coolies and they had sustained grievous injuries and fractures and multiple injuries all over the body.

9. The Learned Counsel for the Appellant further submitted that the Disability Certificate for both the claimants were marked as Exhibits before the Tribunal. According to him, in respect of the claimant/Respondent in C.M.A.No.741 of 2011, the disability was assessed at 25% by the Doctor. But the Tribunal has reduced the disability to 20% under the impugned Award and has calculated the compensation based on such disability. According to him, no contra evidence has been produced by the Appellant before the Tribunal to disprove the disability suffered by the respective claimants as a result of the accident. According to him, without any basis, the Tribunal has reduced the disability from 25% to 20%. Therefore, according to the Learned Counsel for the Appellant, the compensation awarded by the Tribunal under the impugned Award to the respective claimant is a just compensation.

10. This Court, after considering the materials available on record and after examining the impugned Award and after hearing the submissions of the respective Learned Counsels, observes the following:

(a) In both the cases, the respective claimants have filed Wound Certificate, Disability Certificate and Discharge Summary from the Hospital which were marked as Exhibits before the Tribunal. The nature of injuries sustained by the respective claimants have also not been disputed by the Appellant before the Tribunal.

(b) Being Agricultural Coolies, the nature of injuries sustained by them would have certainly impaired them from doing their regular work as Agricultural Coolies. Only after considering these factors, the Tribunal has applied the multiplier method in assessing the compensation. Further, the Doctor assessed the disability of the respective claimants at 25%. But the Tribunal under the impugned Award, without basis, has reduced the disability to 20%.

11. The Tribunal under the impugned Award has awarded a total compensation of Rs.1,04,850/- to the Respondent in C.M.A.No.741 of 2011 and the details of the Award are as under:

Heads

Award Amount (Rs.)

Disability

72,000/-

Pain and suffering

10,000/-
Transportation Charges
5,000/-
Extra Nourishment
5,000/-
Attendant Charges
5,000/-
Medical Expenses
7,850/-
Total
1,04,850/-

12.Further, in respect of C.M.A.No.776 of 2011, the Tribunal has awarded a total compensation of Rs.87,480/- to the Respondent and the details of the Award are as under:

Heads
Award Amount (Rs.)
Disability
52,800/-
Pain and suffering
10,000/-
Transportation charges
5,000/-
Extra nourishment
5,000/-
Attendant charges
5,000/-
Medical Expenses
9,680/-
Total
Rs.87,480/-

13.Considering the age, avocation and the year of the accident, this Court is of the considered view that the compensation awarded by the Tribunal to the respective claimants under the various heads is a just compensation.

14.In the light of the above observations, there is no merit in the present Appeals. Accordingly, the Civil Miscellaneous Appeals are dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The Appellant/ Transport Corporation is directed to deposit the amount awarded by the Tribunal along with accrued interest to the credit of M.C.O.P. Nos.19 & 20 of 2008 respectively, if not already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Respondents/Claimants are entitled to withdraw their amounts along with accrued interest lying in the credit of M.C.O.P.Nos.19 & 20 of 2008, by filing an appropriate Application. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

05.10.2018
Speaking Judgment
Index : Yes/No
Internet : Yes/No
Sgl

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Salem.

2.The Section Officer,
VR Section,
High Court, Madras.

ABDUL QUDDHOSE, J.

Sgl

C.M.A.No.741 & 776 of 2011

05.10.2018